and don't get any of that rebated money directly.

The government report found that manufacturers offered higher and higher rebates each year, in fear of being kicked off the preferred formularies. That means they must also inflate the list price each year to keep pace.

In July 2013, insulin maker Sanofi offered rebates of 2% to 4% of the list price—also called the wholesale acquisition cost or WAC—for preferred placement on CVS Caremark's formulary, the finance committee found. Five years later, Sanofi rebates were as high as 56%.

Critics of the rebate system say it amounts to legalized kickbacks. In 2019, a class-action lawsuit accused manufacturers and PBMs of engaging in a commercial bribery ''scheme,'' conspiring to raise the prices of insulin drugs to increase the fees manufacturers paid to PBMs.

Pharmacy benefit managers say the manufacturers drive up prices and keep out any competition from generics.

''Insulin pricing strategies used by drug manufacturers to avoid competition through ongoing patent extensions on insulin products are a significant barrier to getting costs down,'' said Greg Lopes, spokesman for the Pharmaceutical Care Management Association, which represents PBMs.

''PBMs have introduced programs to cap, or outright eliminate, out-of-pocket costs on insulin, and PBMs have stepped up efforts to help patients living with diabetes by providing clinical support and education, which result in better medication adherence and improve health outcomes,'' Lopes said.

Manufacturers, PBMs and nonprofits have set up patient assistance and coupon programs to reduce what patients spend on insulin. Each program has its own requirements to qualify, its own rules and restrictions, and patients have to be aware that the programs exist.

Drugmakers often advertise their patient assistance programs, but the onus ultimately lies with the patient to find and apply for free or reduced-cost insulin. Numerous organizations have developed databases of assistance programs to help patients navigate the sea of options, including PhRMA's Medicine Assistance Tool, RxAssist, NeedyMeds and Beyond Type1's GetInsulin.org.

''For the population that can take advantage of those programs, that's great,'' said American Diabetes Association Chief Advocacy Officer Lisa Murdock. ''We think insulin should be affordable at the point of sale for everyone.''

Lopes pointed out that PBMs pass through to health plan sponsors the vast amount of the rebates they negotiate. In the case of Medicare Part D, the PCMA said that amount is 99.6%.

''The rebates are then used to lower premiums and out-of-pocket costs for patients,'' Lopes said.

CONSUMERS CAN PAY HUNDREDS MORE UNDER REBATE SYSTEM

Nonprofit drug price research group 46brooklyn released a report demonstrating how patients end up paying more because of rebates.

It looked at a box of Lantus insulin pens—which hold pre-dosed cartridges for easier injection—with a list price of $425. According to the Finance Committee's report, Lantus offered the PBM OptumRx a rebate of 79.76% or $339 in 2019.

The consumer's health plan gets that rebate every month regardless of whether the consumer pays full-price in the deductible phase or pays a smaller co-insurance amount later in the year.

46brooklyn used a fictional consumer who has a deductible of $1,644—a figure the Kaiser Family Foundation says is the U.S. average.

Each month, January through April, the consumer in this scenario would pay close to the full list price for insulin, $408 in this case based on retail price data. Those same months, the health plan, paying $0 toward the insulin, would receive a $339 rebate. The manufacturer of the insulin would get the difference, or $69 in this scenario.

The rest of the year, once the consumer hit his deductible, he would pay about $34 for insulin each month. The health plan, after rebates, would pay about $35, giving the manufacturer the same total of $69.

At the end of the year, this fictional diabetic spent a total of $1,906 for insulin while the manufacturer made $828. The consumer's health plan via the PBM came out ahead, profiting $1,078 after getting more than $4,000 worth of rebates.

If all the middlemen and insurance were cut out, and the consumer was simply charged the net cost of the drug every month, 46brooklyn argued, the consumer would save more than $1,000 a year while the manufacturer would make the same profit.

A study by researchers at the University of Southern California found that manufacturers, often blamed for rising prices, actually make less money as list prices rise. Since 2014, while list prices rose by 40%, the net price that manufacturers made off their insulin products decreased more than 30%, according to the study published in the Journal of the American Medical Association.

The PCMA disputed the accuracy of 46brooklyn's rebate scenario.

''By cherry picking an extreme and unrealistic example of high patient out-of-pocket costs, the 46brooklyn report does a poor job of depicting the health care experience for most insured people with diabetes,'' Lopes said. ''For example, the report's out-of-pocket cost assumption is actually significantly higher than the amount at which many plans set or cap patient cost sharing for insulin.''

There are consumers who reported paying $400 out-of-pocket for a month's supply of insulin after insurance. Rod Regalado is one of them.

A FATHER'S CRUSADE

Regalado had never heard of a pharmacy benefit manager before two years ago.

That's when his son Matt, then 14, was diagnosed with Type 1 diabetes and Regalado got a crash course in insulin pricing.

His first trip to the pharmacy when his son was released from a hospital came with a $1,000 price tag for all the testing supplies and insulin he'd never purchased before. The next month, when all he had to do was buy more insulin, the price was still north of $400 after insurance.

The single dad of two said he thought he had good insurance until he found himself having to redo his entire household budget to afford insulin.

''I thought how do people do this?'' he said. The resident of Tekamah, Nebraska, started making calls to his insurance, pharmacy and doctors, trying to figure out a way to lower his out-of-pocket costs. Then he called his congressman.

''The harsh reality is that the cost of insulin is artificially high and ever-escalating,'' U.S. Rep. Jeff Fortenberry, R–Neb., said in July when he and Rep. Angie Craig, D–Minn., reintroduced their bill aimed at capping prices. ''Matt's Act makes insulin prices fair for everyone by capping the price at $60 a vial and $20 a vial for those on insurance.''

Though legislative efforts have focused on capping out-of-pocket costs, there has been a push to eliminate rebates altogether and drive down list prices across the market. That would require the buy-in of all parts of the drug supply chain.

Some PBMs have created formularies that don't require rebates, but they struggle to get health plans to adopt them. The insurers have come to expect and rely on the money from rebates, and some have them written into their PBM contracts.

'A MOMENTOUS DAY'

Ciaccia of 46brooklyn pointed to the new insulin product Semglee as an example of how dysfunctional the marketplace can be.

In July, the FDA approved Semglee as the first interchangeable biosimilar insulin product. Biosimilars are like generic drugs in that they can be substituted at the pharmacy counter without needing a separate prescription.

Semglee is interchangeable with Lantus.

More biosimilars are likely to gain approval in the next few years. They've been touted as game changers that will lead to lower prices and more options for patients.

Acting FDA Commissioner Janet Woodcock called it ''a momentous day'' for people who depend on insulin. ''Biosimilar and interchangeable biosimilar products have the potential to greatly reduce health care costs,'' she said.

Biocon and Viatris, the makers of Semglee, launched two different versions of the drug—the branded one called Semglee and a non-branded version called insulin glargine.

The nonbranded version's list price is about $148 for a package of five 3-ml pens, which is 65% cheaper than Lantus.

There is indication that the largest PBMs in the country won't carry that version on their preferred drug formularies, instead offering the branded Semglee, which has a reported list price of $404 per package of five. That makes it only slightly cheaper than Lantus at $425.

The ACTING PRESIDENT pro tempore. The Republican whip.

Mr. THUNE. Mr. President, I ask unanimous consent that I be able to complete my remarks prior to the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMY

Mr. THUNE. Mr. President, the latest inflation numbers came out Friday, and the news was not good. Inflation is currently at the highest level in nearly 40 years—40 years. The last time inflation was this bad, ''E.T.'' and ''Rocky III'' were in theaters, and the Green Bay Packers were being coached by Bart Starr.

High inflation is taking a major toll on American families. Gas prices are at a 7-year high. The price of used cars and trucks is up 31 percent—31 percent. Propane, kerosene, and firewood are up 34 percent.

Food prices have increased significantly. Ground beef is up 14 percent. Apples are up 7.4 percent. Pork is up 17 percent; eggs, 8 percent. Baby food is up 6.7 percent. Bacon and related products are up 21 percent. And the list continues.

Rent prices are up. Utility prices are up. Furniture prices are up, and on and on.

Inflation is so bad that, despite wage growth this year, Americans have seen a de facto pay cut, with real average hourly earnings down 1.9 percent this year.

Inflation is what happens when you have too many dollars chasing too few goods and services. And a big reason for our current inflation situation is the Democrats' decision to pour a lot of unnecessary government money into the economy earlier this year, despite—despite, I might add—being warned that their partisan $1.9 trillion American Rescue Plan spending spree could stoke inflation.

And you don't have to take my word for it. Here is what former Obama economic adviser Jason Furman had to say recently when discussing our inflation problem:

> The original sin was an oversized American Rescue Plan. It contributed to both higher output but also higher prices.

That quote from Mr. Furman appeared in a New York Times article that also noted:

> But some economists, including veterans of previous Democratic administrations, say much of Mr. Biden's inflation struggle is self-inflicted. Lawrence H. Summers is one of those who say the stimulus bill [that] the president signed in March gave too much of a boost to consumer spending. . . . Mr. Summers, who served in the Obama and Clinton administrations, says inflation now risks spiraling out of control and other Democratic economists agree there are risks.

Again, that is from the New York Times.

Inflation is spiraling out of control, and Democrats are preparing to throw more fuel on the fire. That is right. Democrats are preparing to double down on the strategy that helped get us in this mess in the first place and pass yet another massive government spending bill.

I am not sure whether Democrats simply don't care about the inflation situation facing American families or whether they are operating under the delusion that they can somehow pass another major government spending bill without serious consequences for the economy.

Regardless, there is no question that pouring another $1.75 trillion in government money into the economy would likely make our inflation crisis even worse than it is today.

I say $1.75 trillion because that is what Democrats have been selling as the pricetag for their so-called Build Back Better plan. But as we learned on Friday of last week from the Congressional Budget Office's latest analysis, the Democrats' spending spree would far exceed $1.75 trillion. When you take away the shell games and budget gimmicks, the Democrats' spending spree would cost almost $5 trillion—5 trillion. And, of course, the tax hikes in the Democrats' plan, as large as they are, wouldn't even come close to funding that amount.

The Democrats' Build Back Better proposal, if implemented over 10 years, as they plan, would add an eye-popping $3 trillion to our national debt. It turns out that Build Back Better is more like ''Build Back Bankrupt.''

Democrats have attempted to disguise the true cost of their ''Build Back Bankrupt'' plan by strategically sunsetting various provisions before the end of the bill's 10-year budget window. Of course, Democrats have never had any intention of actually sunsetting these provisions. But by claiming that they are going to sunset these measures, they have been able to sort of disguise the fact that their spending spree would actually cost nearly $5 trillion.

That is the Congressional Budget Office, not me. The Congressional Budget Office, last Friday said, if extended—the 10-year window—this bill would cost $5 trillion.

Democrats are implicitly admitting that they plan to extend these programs, but they are saying that people shouldn't worry, that the cost of these extensions will be offset. Well, I would like to know just how exactly they plan to do that.

With massive new tax hikes, on top of the tax hikes they have already included in their bill—just how many tax hikes do Democrats think our economy can handle?

And if Democrats had a plan for future offsets, why didn't they include those offsets in their bill, in the first place, along with an honest accounting of the length of their programs?

Is it because they thought that the American people would balk if they knew the true cost of the bill, that they might not be crazy about the idea of a bill that would cost them $5 trillion?

I am hard-pressed to think of anything more irresponsible than for Democrats to pass their Build Back Better—or their ''Build Back Bankrupt''—measure right now. Inflation is soaring, as I have just pointed out, and there is no clear end in sight. Even the Federal Reserve is now acknowledging that this isn't transitory. They removed that word from their description.

We are emerging from a pandemic that required a lot of government expenditure and a corresponding increase in our debt, and we have no idea what government money might be needed down the road.

Passing a $5 trillion spending spree that would add $3 trillion to our national debt is the very last thing that we should be doing.

I hope that at least some of my Democrat colleagues will think better of their spending plans before the American people are forced to discover just what ''Building Back Bankrupt'' is really like.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. PADILLA). Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 576, Samantha D. Elliott, of New Hampshire, to be United States District Judge for the District of New Hampshire.

Charles E. Schumer, Richard J. Durbin, Tina Smith, Martin Heinrich, Elizabeth Warren, Patty Murray, Tammy Duckworth, Tim Kaine, Gary C. Peters, Angus S. King, Jr., Brian Schatz, Margaret Wood Hassan, Jacky Rosen, Chris Van Hollen, Jeanne Shaheen, Christopher Murphy, Ron Wyden.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Samantha D. Elliott, of New Hampshire, to be United States District Judge for the District of New Hampshire, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Wyoming (Ms. LUMMIS).

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 495 Ex.]

YEAS—59

Baldwin	Hassan	Reed
Bennet	Heinrich	Romney
Blumenthal	Hickenlooper	Rosen
Booker	Hirono	Sanders
Brown	Kaine	Schatz
Burr	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Luján	Stabenow
Collins	Manchin	Tester
Coons	Markey	Tillis
Cornyn	Menendez	Toomey
Cortez Masto	Merkley	Van Hollen
Duckworth	Murkowski	Warner
Durbin	Murphy	Warnock
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden
Grassley	Peters	

NAYS—40

Barrasso	Hagerty	Risch
Blackburn	Hawley	Rounds
Blunt	Hoeven	Rubio
Boozman	Hyde-Smith	Sasse
Braun	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cassidy	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	Marshall	Tuberville
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Paul	
Fischer	Portman	

NOT VOTING—1

Lummis

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 40.

The motion is agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the